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**BZA-1916  
SMT PROPERTIES, LLC  
Variances**

**STAFF REPORT  
August 21, 2014**

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**REQUEST MADE, PROPOSED USE, LOCATION:**

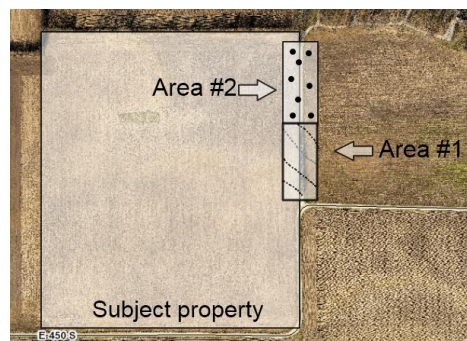
Petitioner, by managing partner Tom Taulman and represented by Starr Associates, is requesting the following bufferyard variances:

1. To reduce the required amount of vegetation within the 20' wide Type C bufferyard on the south half of the north half of the east side of the property (about 410') by using only the existing vegetation where it abuts A zoning (UZO 4-9-3-a); and
2. To replace the bufferyard on the north half of the north half of the east side property line (about 400' in length) with a 10' wide bufferyard containing 6 canopy trees, no understory trees and no shrubs per 150 linear feet instead of the required Type C bufferyard, 20' in width containing 4 canopy trees, 8 understory trees and 40 shrubs per 150 linear feet (UZO Appendix E-2).

The proposed use, operated by TKO Graphix specializes in applying vinyl lettering and wraps to truck trailers. The trailers are finished and resold to an end user. The 30 acre property is located just east of US 52, where CR 450 S curves to the north to become 430 S in Sheffield 18 (NW) 22-3.

To reduce confusion regarding these two variance requests, the south half of the north half of the east property line will be referred to as **Area #1** and is the subject of variance request #1.

The north half of the north half of the east property line will be referred to as **Area #2** and is the subject of variance request #2.



**AREA ZONING PATTERNS:**

The subject property is zoned I3, Industrial, and is located on the southeastern edge of

Lafayette's industrial expansion area which took on its Industrial zoning along with 1400+ acres in 1997 (Z-1715). This expansion continued through four rezones between 1996 and 2001 (Z-1640, -1714, -1715, & -2040) and resulted in the current I3 zoning pattern in the area. Agricultural zoning (A) is adjacent to the north, east and south of this site. Land directly west is zoned I3 Industrial.

This site was granted a variance by the ABZA in March 2013 (BZA-1878) to allow gravel parking aisles instead of paving; maneuvering aisles and customer/employee parking will still have to be paved.

#### **AREA LAND USE PATTERNS:**

The site is currently being prepared for improvement; all immediately surrounding land is in row crop production.

Abutting the east property line—the location of these variance requests—is a shared driveway for four homes located further to the northeast. The south half of the driveway (**Area #1**) has some existing vegetation; the north half (**Area #2**) has none. This drive accesses the county road where CR 450 S turns 90° and runs east-west as CR 430 S.

#### **TRAFFIC AND TRANSPORTATION:**

The *Thoroughfare Plan* classifies CR 450 South as a rural local road. The previously submitted and approved site plan shows two entrances off of 450; one entrance for passenger vehicles and one for truck traffic. All maneuvering aisles and customer/employee parking will be paved but the areas where trailers are kept will be in gravel.

#### **ENVIRONMENTAL AND UTILITY CONSIDERATIONS:**

City utilities are not available to this site; well and a commercial septic will serve the development.

Per the UZO, a 20' wide type C bufferyard is required where I3 zoning is adjacent to A-zoning. The previously-approved site plan submitted with BZA-1878 showed the required bufferyard in place to the north and northeast (where I3 abuts A). The County Building Commissioner has determined that existing plant material on the northern property line is sufficient to meet bufferyard standards and petitioner will not need to install more plant material on that side of the tract.

Petitioner will continue with previous plans to install a 3' high berm to provide an additional visual block along the driveway on the eastern property line.

#### **STAFF COMMENTS:**

The subject property is at the southeastern edge of Lafayette's planned industrial expansion area. As such, it is surrounded on three sides by Agricultural zoning. When a property zoned I3 is improved, a 20' wide Type C bufferyard is required along its border with A zoning (though a buffer is not required where a public right-of-way forms the zoning boundary along the southern and southeastern property lines (UZO 4-9-2(b)).

Per the requirements of the ordinance, a bufferyard is required along the entire northern length of petitioner's property as well as the north half of the east line (**Areas #1 and #2**) abutting the existing driveway.

The Ordinance allows "existing plant material and/or land located on the improved property which meets the requirements of this section [to be] counted by the Administrative officer as contributing to the total bufferyard to be installed" (UZO 4-9-5(b)). The County Building Commissioner has determined that the row of existing trees along the northern property line is sufficient to serve as the bufferyard.

Existing trees are also in place along a 410' long portion of the eastern property line that abuts the neighbors' driveway as well as A zoning (**Area #1**); there is no vegetation on the remaining 400' (**Area #2**). The County Building Commissioner determined that those existing trees in **Area #1** were *not* sufficient to meet bufferyard standards.

Petitioner would now like to utilize that existing plant material along **Area #1** to serve as the required bufferyard as well as install a bufferyard with an abbreviated plant schedule in **Area #2** that currently has no plant material. The proposed bufferyard in **Area #2** would be reduced to 10' in width instead of 20' containing 6 canopy trees per 150 linear feet eliminating the required 8 understory trees and 40 shrubs while adding two canopy trees per 150 linear feet.

Bufferyards serve a dual purpose: to provide a physical as well as visual barrier. While the community determined many years ago that this area was appropriate for industrial development, adjoining property owners and existing residences should still be offered the protection from dirt, dust, noise and danger that the required Type C bufferyard provides. While the A-zoned property abutting to the east is an open field, there is a driveway that serves four homes to the northeast which should be buffered from this industrial use.

Regarding the ballot items:

1. The Area Plan Commission at its August 20, 2014 meeting determined that the variances requested **ARE NOT** use variances.

And it is staff's opinion that:

2. Granting these variances **WILL** be injurious to the public health, safety, and general welfare of the community. The ordinance explains that the intent of a bufferyard is to minimize potential nuisances as well as to "reduce danger from accident, fire or explosion." Allowing a reduced bufferyard in both variance requests does not adequately protect neighboring uses or mitigate danger.
3. Because there is not enough visual buffer to protect the neighbors, use and value of the area adjacent to the property included in both variances requested **WILL** be affected in a substantially adverse manner.

4. There is nothing topographically unusual about this flat, 30-acre piece of property; the terms of the zoning ordinance are being applied to a situation that **IS** common to other properties in the same zoning district.
5. Because it is simply petitioner's desire to deviate from the standards of the ordinance, strict application of its terms **WILL NOT** result in an unusual or unnecessary hardship as defined in the zoning ordinance.

**Note:** Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. The petition states "the disproportionately large quantity of plant material required presents an unfair and burdensome investment by the Owner." Therefore, the self-imposed hardship involved **IS** solely based on a perceived reduction of or restriction on economic gain.

5b. The variances sought **DO NOT** provide only the minimum relief needed to alleviate the hardship. The Administrative Officer has already determined that the existing vegetation on the north side of the property is sufficient to meet UZO standards; there is no ordinance-defined hardship preventing petitioner from installing this portion of the bufferyard.

**STAFF RECOMMENDATION:**

Variance #1: Denial

Variance #2: Denial